

REMARKS

Claims 11, 13, 15-17 and 19 remain in the application after amendment herein. In the outstanding Office Action all of the claims were finally rejected under Section 103. Claims 11, 14 (now canceled) and 15 – 17 were rejected over the combination of German Patent 3926556 in view of German Patent 2,357,881. Claims 12-13 were rejected over the same combination but in further view of Tardy (U.S. 4,470,339), and claim 19 was rejected over Arvidsson (U.S. 4,915,510) in view of German Patent 3926556 and based on Official Notice that the use of 4/2-way directional control valves is well known in the art of hydraulic systems. Objection raised to claim 14 is now moot in view of the cancelation of that claim.

Applicants request entry of this amendment because it does not introduce any new issues and does place the application in better condition for allowance or appeal. Specifically, this amendment incorporates subject matter of canceled claim 12 into each of the independent claims 11 and 19. For reasons now presented it is urged that, notwithstanding remarks accompanying the final rejection (see page 4 of the Final Office Action), this combination of subject matter is both distinct and non-obvious over the art of record.

As noted in the outstanding office action, the Examiner did not find the applicants' arguments concerning the Tardy reference (as applied to claim 12) persuasive, in part because the '556 patent discloses restrictors and Tardy was not relied upon to teach the feature of restrictors. See page 3 of the Office Action. However, the rejection countered the argument concerning claim 12 (that none of the prior art provides, in addition to the restrictors of claim 11, "a first flow control valve positioned between the first piston element and the hydraulic system and a second flow control valve positioned between the second piston element and the hydraulic system ...") by arguing that

"Tardy teaches that a piston ... may have a restrictor 5/7 formed with a flow control valve 4, for the purpose of controlling flow to the piston"

However, there is no disclosure of such restrictors in Tardy and it is no more than conjecture to state that features 5/7 of Figure 1 (Tardy) might be construed as restrictors. Further, the record already shows that Tardy is not relied upon for teaching restrictors.

In this same regard, the combination of references does not render obvious applicants' combination of claims 11 and 19 because there is no reason or motivation to combine the valve of Tardy with the restrictor of the '556 patent. Note, specifically, that the '556 patent (i) relates to a marine propeller shaft and (ii) does not involve use of a hydraulic pump (see page 8 of the office action) in relation to limiting "admissible displacement speed of the rotor during **intended** displacement." Emphasis Added. For these reasons it is apparent that the '556 patent, used as the primary reference in rejecting claim 11, does not relate to the problems addressed by the claimed invention and there is an absence of any motivation to combine the elements of the different references to reconstruct the claimed combination.

Although claim 19 was rejected on different grounds, with incorporation of features formerly presented in claim 12, the same argument applies. That is, neither the Arvidsson patent nor the '556 patent provide any motivation to combine the features disclosed therein with the Tardy patent. With regard to both independent claims, applicants' restrictors and flow control valves are configured so that the restrictors only limit displacement speed of the rotor in the event of a fault whereas the flow control valves limit admissible displacement speed of the rotor during intended displacement.

Conclusion

Both of the independent claims as amended have been shown to be patentably distinct. Allowance of the application is therefore requested. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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